

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MAY 6, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 1479**

**Introduced by Assembly Member Chu**

February 21, 2003

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An act to amend Section 11222 of, to add Sections 11205.2 and 11205.3 to, and to repeal and add Sections 11205, 11205.1, and 11214 of, the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1479, as amended, Chu. Vehicles: traffic violator schools.

(1) Under existing law, a court is authorized to take certain actions regarding a traffic violator school's name and the removal of the name from the traffic violator school referral list published by the Department of Motor Vehicles which is transmitted to the courts. Existing law requires the approval of the court in each judicial district in which a proposed traffic school owner or traffic classes are to be conducted prior to the school being included on this referral list.

This bill would ~~impose~~ *revise* those duties, ~~as revised, on the department rather than the courts~~ and would ~~delete~~ *revise* the provisions currently ~~requiring providing the criteria used by a court approval of in approving~~ traffic violator schools *school names*. ~~The bill would also require the department to publish a list of the owners and operators of licensed traffic violator schools, with copies provided to the courts, and to publish this list quarterly.~~

(2) Existing law requires a court to use either the current list of traffic violator schools published by the department or a statewide referral list published by a nonprofit agency utilized by the courts for administration and monitoring services.

The bill would require the department to publish and revise, ~~at least bimonthly~~, a classroom referral list consisting of the ~~department's~~ approved names of those licensed traffic violator schools that offer the classroom method of instruction, as specified. The bill would require a court, *except as specified*, to use the current classroom referral list published by the department when a person is ordered by a court to complete a program of traffic safety instruction.

(3) Existing law authorizes the courts to utilize the services of a nongovernmental agency for traffic violator school administration and monitoring services and charge traffic violators a fee to defray the costs incurred by the agency for providing those services. The fee is limited to the actual cost incurred by the agency or \$5, whichever is less.

The bill would authorize a court to use court assistance program or CAP, as defined, to assist the court in performing services, as defined, relating to the processing of traffic violators. This bill would delete the \$5 limitation on the amount of the fee that may be imposed and would prohibit a court assistance program from performing or duplicating services provided by the department.

(4) Existing law authorizes the department to monitor traffic violator schools, as specified.

This bill would repeal this existing authorization, and instead, would authorize the department to audit, inspect, and monitor all licensed traffic violator schools, as described. The bill would require a court assistance program to follow a specific procedure if that program ~~has been requested by a court to conduct~~ *conducts* the school monitoring services.

(5) This bill would provide that its provisions ~~shall not become operative if AB 435 is enacted and becomes operative on or before January 1, 2004~~ *do not restrict the authority of a court as to the form or content of a court-approved program of driving instruction ordered by a court under a specific section of the Vehicle Code.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11205 of the Vehicle Code, as amended  
2 by Section 455.5 of Chapter 931 of the Statutes of 1998, is  
3 repealed.

4 SEC. 2. Section 11205 of the Vehicle Code, as amended by  
5 Section 456 of Chapter 931 of the Statutes of 1998 is repealed.

6 SEC. 3. Section 11205 is added to the Vehicle Code, to read:

7 11205. (a) Each traffic violator school owner shall submit a  
8 proposed name to the ~~department~~ *superior court*, on a form  
9 approved by the department, and request name approval for the  
10 traffic violator school *operating within the court's jurisdiction*.  
11 The ~~department~~ *court* may not impose a fee for the submission of  
12 this application.

13 (b) The ~~department~~ *court* shall have 30 days to act on the  
14 request for name approval. If the ~~department~~ *court* fails to act  
15 within 30 days of receipt of this application for name approval,  
16 then the proposed name shall be deemed approved by the  
17 ~~department~~ *court* for use by the traffic violator school for all  
18 purposes.

19 (c) In making a determination under this section of whether or  
20 not to approve a proposed name, the ~~department~~ *court* shall use as  
21 its criteria whether the proposed name is misleading to the public,  
22 undignified, or implies that the applicant offers inducements or  
23 premiums that derogate or distort the instructional intent of the  
24 traffic safety program.

25 (d) If the ~~department~~ *court* approves the proposed name, the  
26 ~~department~~ *court* shall notify the applicant of its decision within  
27 the time period set forth in subdivision (b).

28 (e) (1) Whenever the ~~department~~ *court* determines that the  
29 proposed name is not in compliance with subdivision (c), the  
30 ~~department~~ *court* shall immediately notify the applicant that the  
31 ~~department~~ *court* has disapproved the proposed name. In its  
32 written notice to the applicant of its decision to reject the proposed  
33 name, the ~~department~~ *court* shall set forth the specific basis,  
34 rational, and supporting evidence for the ~~department's~~ *court's*  
35 decision. A recital of the criteria set forth in subdivision (c) is not  
36 sufficient to meet this requirement.

37 (2) If requested by the applicant or its representative, the  
38 ~~department~~ *court* shall schedule a hearing for that applicant at

1 which hearing the sole issue shall be whether the name violates the  
2 criteria under subdivision (c).

3 (3) The ~~department~~ court shall make every effort to schedule,  
4 conduct, and complete a hearing within 60 days of receipt of the  
5 applicant's request for a hearing.

6 (f) A substitute proposed name may be submitted under this  
7 section to the ~~department~~ court for approval at any time before or  
8 after the conclusion of the hearing. The ~~department~~ court shall,  
9 within 30 days of receipt of the request for approval of the  
10 substitute name, inform the applicant, on a form approved by the  
11 department, of its approval or rejection of the substitute name. The  
12 applicant may continue this appeal process for approval of a  
13 substitute name until the ~~department~~ court determines that the  
14 name does not violate the criteria under subdivision (c). *A school's*  
15 *name approval in a judicial district does not affect the school's*  
16 *name or listing in any other district in the state.*

17 (g) A decision by the ~~department~~ court to reject a proposed  
18 name or substitute name may be reviewed by any court of  
19 competent jurisdiction.

20 SEC. 4. Section 11205.1 of the Vehicle Code is repealed.

21 SEC. 5. Section 11205.1 is added to the Vehicle Code, to read:

22 11205.1. (a) The department shall publish a list of the owners  
23 and operators of traffic violator schools licensed by the  
24 department. At least one copy shall be provided to each superior  
25 court in the state. This list shall be revised at least ~~quarterly~~ *twice*  
26 *a year and transmitted to the courts by the tenth day of the months*  
27 *of January, April, July, and October. transmitted to the courts by*  
28 *the first day of January and the first day of July.*

29 (b) The list published in subdivision (a) shall include all of the  
30 following:

31 (1) The ~~department~~ approved name of a traffic violator school.

32 (2) The business office address of the traffic violator school.

33 (3) The business office telephone number of the traffic violator  
34 school.

35 (4) The license number of the traffic violator school.

36 (5) The traffic violator school owner's name.

37 (6) The traffic violator school operator's name.

38 ~~(7) The traffic violator school's Web site address, if any.~~

39 SEC. 6. Section 11205.2 is added to the Vehicle Code, to read:

1 11205.2. (a) The department shall publish a classroom  
2 referral list consisting of the department's approved names of  
3 those licensed traffic violator schools that offer the classroom  
4 method of instruction. The department shall transmit copies of the  
5 classroom referral list to each superior court in the state in  
6 sufficient quantity to ensure the courts provide a whole,  
7 nonexcerpted copy of the classroom referral list to each person  
8 referred by the court to a traffic violator school under Section  
9 42005. The list shall be revised at least ~~bimonthly~~ *semiannually*,  
10 or more often as necessary to serve the purposes of this chapter,  
11 and sent to the courts by the first day of ~~each odd-numbered month~~.  
12 *January and the first day of July*.

13 (b) (1) The classroom referral list shall include the following:

14 (A) The name of the traffic violator school approved under  
15 Section 11205.

16 (B) A telephone number to be used by students for information.

17 (C) The name of the county, judicial district, and city for each  
18 approved classroom location.

19 ~~(D) A Web site address, if the school has one.~~

20 (2) Each traffic violator school listed in the classroom referral  
21 list shall appear by its approved name and shall be permitted one  
22 ~~department-approved~~ *approved* school name in a judicial district.

23 (3) The classroom referral list shall be organized alphabetically  
24 in sections for each city within a county and in subsections for each  
25 judicial district within the county. The name of a traffic violator  
26 school shall appear in each city in which the school has an  
27 approved classroom location. The order of the traffic violator  
28 school names listed within each city shall be random in accordance  
29 to the department's development and implementation of a system  
30 of computer generated, randomly selected numbers or rotated  
31 within each subsection for each copy of the list that is printed.

32 (c) ~~Each~~ *Except for those courts described in subdivision (a) of*  
33 *Section 42005, a court shall use the current classroom referral list*  
34 *published by the department, when the court orders a person to*  
35 *complete a program of traffic safety instruction pursuant to*  
36 *Section 42005.*

37 (d) The department may augment, but not replace, the printing  
38 and distribution of the classroom referral list by also electronically  
39 publishing copies of these referral lists on the department's Web  
40 site.

SEC. 7. Section 11205.3 is added to the Vehicle Code, to read:  
11205.3. (a) As used in this section and Section 11214, court assistance program or, “CAP” is a public or private nonprofit agency.

(b) A court may use a CAP to assist the court in performing services related to the processing of traffic violators. As used in this section, “services” includes those services relating to the processing of traffic violators at, and for, the court.

(c) Except as provided in subdivision (d), in providing its services to a court, a CAP shall not perform or duplicate any service, function, or responsibility of the department set forth in this chapter or in the department’s regulations related to traffic violator schools. A CAP utilized by a court may not issue certificates of completion or provide testing services for a licensed traffic violator school.

(d) Whenever a CAP monitors a designated traffic violator school ~~at the request of a court~~, the CAP shall follow the procedures set forth in subdivision (d) of Section 11214. The CAP shall send its monitoring report to the department for review, evaluation, processing and any further action determined necessary by the department. A copy of the report shall also be provided to the court. A CAP has no authority over a traffic violator school, other than as provided in this section. Nothing in this section shall be construed to abrogate or limit the inherent powers of the courts under Article VI of the California Constitution.

(e) The court may charge the traffic violator a fee to defray the costs incurred by the CAP to provide its services to the court. Fees shall be established, approved, and regulated by the court. If a fee is imposed, it shall be collected by the court from the traffic violator. The court may delegate collection of the fee to the CAP. Any fee authorized by this subdivision shall be applicable only in those cases where a traffic violator has agreed to attend or has been ordered to attend a program of traffic safety instruction pursuant to Section 42005. The fee shall not apply to those nontraffic violator persons who elect to attend a traffic violator school under to Section 11200.

(f) This section does not preclude a court from entering into a contract with public or private nonprofit agencies to provide services to the court, other than those described in this section.

1 SEC. 8. Section 11214 of the Vehicle Code is repealed.

2 SEC. 9. Section 11214 is added to the Vehicle Code, to read:

3 11214. (a) The department has the exclusive authority to  
4 audit, inspect, and, except as provided in subdivision (d) of section  
5 11205.3, to monitor all licensed traffic violator schools.

6 (b) The department may annually audit the records of a  
7 licensee. Auditing includes, but is not limited to, the review and  
8 examination of business records, class records when applicable,  
9 business practices, and the content of the program of instruction  
10 set forth in the lesson plan or curriculum of a licensee.

11 (c) Inspecting includes, but is not limited to, the review of the  
12 business office, branch office, and applicable classroom facilities  
13 of a licensee.

14 (d) Monitoring includes the onsite review of the actual  
15 presentation of the program of traffic safety instruction provided  
16 in a classroom mode of instruction. The department shall develop  
17 forms to be used for monitoring by the department or by a court  
18 assistance program under subdivision (d) of Section 11205.3.  
19 Whenever a traffic safety class is monitored by the department or  
20 a court assistance program, the monitoring agency shall mail a  
21 copy of the monitoring report to the traffic violator school owner.  
22 Any subsequent monitoring report related to the same class shall  
23 be mailed to the traffic violator school owner. A copy of a  
24 monitoring report required to be mailed to a licensee shall be sent  
25 within 20 days after the date of monitoring.

26 ~~(e) To the extent that funding is available, the department shall~~  
27 ~~endeavor to monitor one representative class of a classroom-based~~  
28 ~~licensee at least once every 180 days in each county in which the~~  
29 ~~licensee provides traffic safety instruction. The department's~~  
30 ~~monitoring of a licensee's program of traffic safety instruction~~  
31 ~~may be conducted without advance notice to the licensee. The~~  
32 ~~department shall provide the resources and staffing for these~~  
33 ~~monitoring functions that are commensurate with the moneys~~  
34 ~~appropriated by the Legislature to the department under Section~~  
35 ~~11208.~~

36 SEC. 10. Section 11222 of the Vehicle Code is amended to  
37 read:

38 11222. The department may contract with a public or private  
39 nonprofit entity to administer any part of this chapter, subject to  
40 limitations in other laws regarding contracting out for services. No



1 contract shall exceed three years' duration. The contracting entity  
2 shall conform to all of the following requirements:

3 (a) Engage in no other business activity with a traffic violator  
4 school or any principal of a traffic violator school, including the  
5 provision of services or supplies.

6 (b) Provide reports in the form required by the department and  
7 to the Legislature as instructed by the department. These reports  
8 shall be issued not less frequently than annually.

9 (c) Make its records available for inspection by authorized  
10 representatives of the department, the Legislative Analyst, and the  
11 State Auditor.

12 (d) The public or private nonprofit entity may not subcontract  
13 any obligations it may have under this contract with the  
14 department.

15 ~~SEC. 11. This act shall not become operative if Assembly Bill~~  
16 ~~No. 435 of the 2003-04 Regular Session is enacted and becomes~~  
17 ~~operative on or before January 1, 2004.~~

18 *SEC. 11. Nothing in this act restricts the authority of a court*  
19 *as to the form or content of a court-approved program of driving*  
20 *instruction ordered by a court under Section 41501 of the Vehicle*  
21 *Code.*

